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THE

TRIAL OF JESUS

BEFORE

CAIAPHAS AND PILATE.

BEING

A REFUTATION OF MR. SALVADOR'S CHAPTER

ENTITLED

"THE TRIAL AND CONDEMNATION OF JESUS."

By M. DUPIN,

ADVOCATE AND DOCTOR OF LAWS.

If thou let this man go, thou art not Cæsar's friend. — *John* xix 12.

TRANSLATED FROM THE FRENCH,

BY A MEMBER OF THE AMERICAN BAR.

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PREFACE.

A FEW years ago, Mr. Joseph Salvador, a physician — and a descendant of one of those Jewish families, whom the intolerance of Ferdinand the Catholic expelled, in a body, from Spain, about the year 1492 — published at Paris a learned work, entitled "Histoire des Institutions de Moïse et du Peuple Hebreu," or History of the Institutions of Moses and the Hebrew People; and in one chapter of his work he gives an account of the *Administration of Justice* among the Hebrews. To that chapter he has subjoined an account of the "Trial and Condemnation of Jesus;" in the course of which he expresses his opinion, that the trial, considered merely as *a legal proceeding*, was conformable to the Jewish laws.

The author of the following little work, M. Dupin, who is one of the most eminent lawyers of the French Bar, immediately called in question the correctness of Mr. Salvador's opinion, and entered upon an analysis of this portion of his work, with a view to examine its soundness; and the present volume con-

tains the result of that examination, conducted with great legal skill and extensive learning.

It appears, that he had, many years before, in a little work, entitled "*The Free* Defence of Accused Persons," published in 1815, taken the same views of this great trial; which, as he observes, has been justly called "the *Passion* or *Suffering* of our Savior; for he did in truth *suffer*, and had not a *trial*."

The author's attention, however, had been withdrawn from this subject for several years, when it was again brought under his notice by the work of Mr. Salvador; a copy of which was sent to him by that writer, with a request that M. Dupin would give some account of it. Accordingly, says the latter, "it is in compliance with *his request*, and not from a spirit of hostility, that I have made this examination of his work;" and he gives ample proof of his good feeling towards Mr. Salvador, with whom, he says, he is personally acquainted, and for whose talents he has a great respect.

With this friendly spirit he enters upon his examination; which is conducted with an ability, learning, animation, and interest, that leave nothing to be desired. As an argument, his work is unanswerable, he has demolished that of his adversary:

and, for intense interest, we do not know any publication of the present day to be compared with it.

The introductory *Analysis* of Mr. Salvador's chapter on the Administration of Justice according to the Jewish Law will be highly instructive and interesting; and those persons, who have not been accustomed to read the Bible with particular reference to the *Law*, will find many new and striking views of that portion of the Scriptures. They cannot fail to be particularly struck with the extraordinary care taken to secure by law the personal liberty and rights of the citizen.

According to Mr. Salvador's view "the fundamental division into *castes* is the principal basis of the oriental theocracies. Moses, on the contrary, took for his basis the *unity* of the people. In his system of legislation the people are every thing; and the author shows us, that every thing, eventually, is done for them, by them, and with them. The tribe of Levi was established, only to supply a secondary want; and that tribe was very far from obtaining all the powers which we are apt to attribute to it; it did not make, nor develope the laws; it did not judge or govern; all its members, even the high priest himself, were subject to the control of the Elders of the nation, or of a Senate legally assembled.

Intimately connected with these rights of the people was the *liberty of speech;* and Mr. Salvador, in his chapter on the *Public Orators and Prophets*, maintains, and in the opinion of M. Dupin, proves clearly, that in no nation was the liberty of speech ever so unlimited, as among the Hebrews. Accordingly he observes — "What an additional difference was this between the Israelites and the Egyptians! Among the latter, the mass of the people did not dare, without incurring the hazard of the most terrible punishment, to utter a word on affairs of state; it was Harpocrates, the god of silence with his finger on his closed lips, who was their God; in Israel, it was *the right of speech.*

But we forbear any further reflections, and submit this remarkable performance to our readers. Those, who are familiar with the animated tone of French writers, will perhaps discover in this translation some loss of the fire and intensity of the original; but the translator's purpose will be effected, if his version shall be found to be a faithful one.

September 3, 1839.

ANALYSIS

OF THE CHAPTER OF MR. SALVADOR, ENTITLED "THE ADMINISTRATION OF JUSTICE" AMONG THE JEWS.*

Mr. Salvador has discussed with particular care whatever relates to the *administration of justice* among the Jewish people. We shall dwell upon this chapter, which undoubtedly will most interest our readers.

Judicare and *judicari*, to judge and to be judged, express the rights of every He-

* This Analysis first appeared in the *Gazette des Tribunaux*.

brew citizen; that is, no one could be condemned without a judgment, and every one might, in his turn, be called upon to sit in judgment, upon others. Some exceptions to this principle are explained; but they do not affect the rule. In matters of mere interest each party chose a judge, and these two chose a third person. If a discussion arose as to *the interpretation of a law*, they carried it to the lower council of Elders, and from thence to the Great Council at Jerusalem. Each town of more than one hundred and twenty families was to have its lower council, consisting of twenty-three members; and these had jurisdiction in criminal cases.

The expressions, *he shall die*, *he shall be cut off from the people*, which are so often used in the Mosaic law, embrace three very different significations, which we are accustomed to confound. They indicate the suffering of death as a pun-

ishment, civil death, and that premature death, with which an individual is naturally threatened, who departs from those rules which are useful to the nation and to the individual himself. Civil death is the last degree of *separation*, or *excommunication;* it is pronounced, as a judicial punishment, by the assembly of the judges.

There were three kinds of separation; which Mr. Salvador compares to the three degrees of civil excommunication provided for in the French Penal Code, and which condemn the criminal to hard labor either for life or for a term of years, or to certain correctional punishments. But the Hebrew excommunication had this advantage, that the party *never lost all hope of regaining his original standing.*

The Hebrew lawyers, in relation to the punishment of death, maintained opinions, which deserve to be quoted: —

"A tribunal, which condems to death *once in seven years*, may be called *sanguinary.*" — "It deserves this appellation, says doctor Eliezer, when it pronounces a like sentence once in seventy years."—"If we had been members of the high court, say the doctors Tyrphon and Akiba, we should never have condemned a man to death." Simeon, the son of Gamaliel, replied — "Would not that be an abuse? Would you not have been afraid of multiplying crimes in Israel?" Mr. Salvador answers — "No, certainly; far from lessening their number, the severity of the punishment increases it, by giving a more resolute character to the men who are able to brave it; and, at the present day, how many intelligent minds range themselves on the side of Akiba and Tyrphon! How many consciences refuse to participate, in any manner, in the death of a man! The flowing of blood, the multitude excited

by an unbecoming curiosity, the victim dragged in triumph to the horrible altar, the impossibility of repairing a mistake, (from which human wisdom is never exempt) the dread of one day seeing a departed shade rising up and saying, "*I was innocent,*" the facility which modern nations have of expelling from among them the man whose presence pollutes them — the influence of general depravity on the production of crimes — and finally the absurd contrast of the whole of society, while in possession of strength, intelligence, and arms, opposing itself to an individual wretch (who has been drawn on by want, by passion, or by ignorance) and yet finding no other means of redress than by exceeding him in cruelty — all these things, and many others, have so deeply penetrated the minds of all ranks of people, that there will one day proceed from them the most striking proof of the power

of morals over the laws; for the law will be changed by the simple fact, that we shall not find any person, who will consent to apply it."

I feel honored in having maintained the same opinion in my *Observations on Criminal Legislation;* but I solicit those, who wish to see this question discussed in its whole extent, to read the profound reflections which the Duke de Broglie has just published on the subject, in the last number of the *Revue Française* (for October, 1828.)

The whole criminal procedure in the Pentateuch rests upon three principles, which may be thus expressed; publicity of the trial, entire liberty of defence allowed to the accused: and a guaranty against the dangers of testimony. According to the Hebrew text *one* witness is no witness; there must be at least two or three who know the fact. The witness,

who testifies against a man, must swear that he speaks the truth; the judges then proceed to take exact information of the matter; and, if it is found that the witness has sworn falsely, they compel him to undergo the punishment to which he would have exposed his neighbor. The discussion between the accuser and the accused is conducted before the whole assembly of the people. When a man is condemned to death, those witnesses, whose evidence decided the sentence, inflict the first blows, in order to add the last degree of certainty to their evidence. Hence the expression — *Let him among you, who is without sin, cast the first stone.*

If we pursue their application of these fundamental rules in practice, we shall find that a trial proceeded in the following manner.

On the day of the trial, the executive officers of justice caused the accused per-

son to make his appearance. At the feet of the Elders were placed men, who under the name of *auditors*, or *candidates*, followed regularly the sittings of the Council. The papers in the case were read; and the witnesses were called in succession. The president addressed this exhortation to each of them: "It is not conjectures, or whatever public rumor has brought to thee, that we ask of thee; consider that a great responsibility rests upon thee; that we are not occupied by an affair, like a case of pecuniary interest, in which the injury may be repaired. If thou causest the condemnation of a person unjustly accused, his blood, and the blood of all the posterity of him, of whom thou wilt have deprived the earth, will fall upon thee; God will demand of thee an account, as he demanded of Cain an account of the blood of Abel. Speak."

A woman could not be a witness, because she would not have the courage to give the first blow to the condemned person; nor could a child, that is irresponsible, nor a slave, nor a man of bad character, nor one whose infirmities prevent the full enjoyment of his physical and moral faculties. *The simple confession of an individual against himself*, or the declaration of a prophet, however renowned, would not decide a condemnation. The Doctors say — "We hold it as fundamental, that *no one shall prejudice himself*. If a man accuses himself before a tribunal, we must not believe him, unless the fact is attested by two other witnesses; and it is proper to remark, that the punishment of death inflicted upon Achan, in the time of Joshua * was an exception, occasioned by the nature of the circumstances; for our

* Joshua vii. 19, &c.

law does not condemn upon the simple confession of the accused, nor upon the declaration of one prophet alone."

The witnesses were to attest to the identity of the party, and to depose to the month, day, hour, and circumstances of the crime. After an examination of the proofs, those judges, who believed the party innocent, stated their reasons; those who believed him guilty spoke afterwards, and *with the greatest moderation.* If one of the *auditors*, or *candidates*, was entrusted by the accused with his defence, or if he wished in his own name to present any elucidations in favor of innocence, he was admitted to the seat, from which he addressed the judges and the people. But this liberty was not granted to him, if his opinion was in favor of condemning. Lastly; when the accused person himself wished to speak, they gave the most profound attention. When the discussion was

finished, one of the judges recapitulated the case; they removed all the spectators; two scribes took down the votes of the judges; one of them noted those which were in favor of the accused, and the other, those which condemned him. Eleven votes, out of twenty-three, were sufficient to acquit; but it required thirteen to convict. If any of the judges stated, that they were not sufficiently informed, there were added two more Elders, and then two others in succession, till they formed a council of sixty-two, which was the number of the Grand Council. If a majority of votes acquitted, the accused was discharged *instantly;* if he was to be punished, the judges postponed pronouncing sentence till the third day; during the intermediate day, they could not be occupied with any thing but the cause, and they abstained from eating freely, and from wine, liquors, and every thing which might

render their minds less capable of reflection.

On the morning of the third day they returned to the judgment seat. Each judge, who had not changed his opinion, said, *I continue of the same opinion and condemn;* any one, who at first condemned, might at this sitting acquit; but he who had once acquitted was not allowed to condemn. If a majority condemned, two *magistrates* immediately accompanied the condemned person to the place of punishment. The Elders did not descend from their seats; they placed at the entrance of the judgment hall an officer of justice with a small flag in his hand; a second officer, on horseback, followed the prisoner, and constantly kept looking back to the place of departure. During this interval, if any person came to announce to the Elders any new evidence favorable to the prisoner, the first officer waved his flag, and the

second one, as soon as he perceived it, brought back the prisoner. If the prisoner declared to the *magistrates*, that he recollected some reasons which had escaped him, they brought him before the *judges* no less than five times. If no incident occurred, the procession advanced slowly, preceded by a herald who, in a loud voice, addressed the people thus: "This man (stating his name and surname) is led to punishment for such a crime; the witnesses, who have sworn against him are such and such persons; if any one has evidence to give in his favor, let him come forth quickly."

It was in consequence of this rule that the youthful Daniel caused the procession to go back, which was leading Susanna to punishment, and he himself ascended the seat of justice to put some new questions to the witnesses.

At some distance from the place of punishment, they urged the prisoner to confess his crime, and they made him drink a stupefying beverage, in order to render the approach of death less terrible.*

By this mere analysis of a part of Mr. Salvador's work we may judge of the extreme interest of the whole. His principal object has been, to make apparent the mutual aids which history, philosophy, and legislation afford in explaining the institutions of the Jewish people. His book is a scientific work, and at the same time a work of taste. His notes indicate vast reading; and in the choice of his citations he gives proofs of his critical skill and

* By this, says Father Lamy, we may understand what the mixture of wine and myrrh was, which they presented to Jesus on the cross, and which he would not drink. *Introd. to the Reading of the Holy Scriptures*, chap. vi. (*Note of Mr. Salvador*, Book iv. ch. 2.)

discrimination. Mr. Salvador belongs, by his age, to that new generation, which is distinguished as much by its application to solid studies, as by elevation and generosity of sentiment.

TRIAL OF JESUS.

REFUTATION OF THE CHAPTER OF MR. SALVADOR, ENTITLED "THE TRIAL AND CONDEMNATION OF JESUS."

THE chapter, in which Mr. Salvador treats of *the Administration of Justice among the Hebrews*, is altogether theoretical. He makes an exposition of *the law* — that things, in order to be *conformable to rule*, must be transacted in a certain mode. In all this I have not contradicted him, but have let him speak for himself.

In the subsequent chapter the author announces: "That according to this *exposition of judicial proceedings* he is going to follow out the application of them to the

most memorable trial in all history, that of Jesus Christ." Accordingly the chapter is entitled: *The Trial and Condemnation of Jesus.*

The author first takes care to inform us under what point of view he intends to give an account of that accusation: "That we ought to lament the blindness of the Hebrews for not having recognised a God in Jesus, is a point which I do not examine." (There is another thing also, which he says he shall not examine.) "But, when they discovered in him *only a citizen*, did they try him *according to existing laws and formalities?*"

The question being thus stated, Mr. Salvador goes over all the various aspects of the accusation; and his conclusion is, that the procedure was perfectly regular, and the condemnation perfectly appropriate to the act committed. "Now," says he, (p. 87,) "the Senate, having adjudged that Jesus,

the son of Joseph, born in Bethlehem, had profaned the name of God by usurping it himself, though a simple citizen, applied to him the law against blasphemy, the law in the 13th chapter of Deuteronomy, and verse 20th, chapter 18th, conformably to which every prophet, even one that performs miracles, is to be punished when he speaks of a God unknown to the Hebrews or their fathers."

This conclusion is formed to please the followers of the Jewish law ; it is wholly for their benefit, and the evident object is, to justify them from the reproach of *deicide.*

We will, however, avoid treating this grave subject in a theological point of view. As to myself, Jesus Christ is the *Man-God ;* but it is not with arguments drawn from my religion and my creed, that I intend to combat the statement and the conclusion of Mr. Salvador. The present

age would charge me with being intolerant; and this is a reproach which I will never incur. Besides, I do not wish to give to the enemies of Christianity the advantage of making the outcry, that we are afraid to enter into a discussion with them, and that we wish to crush rather than to convince them. Having thus contented myself with declaring my own faith, as Mr. Salvador has let us clearly understand his, I shall also examine the question under a merely *human* point of view, and proceed to inquire, with him, "Whether Jesus Christ, considered as a *simple citizen*, was tried according to the existing laws and formalities."

The catholic religion itself warrants me in this; it is not a mere fiction; for God willed, that Jesus should be clothed in the forms of humanity (*et homo factus est*), and that he should undergo the lot and sufferings of humanity. The son of *God*,

as to his moral state and his holy spirit, he was also, in reality, the *Son of Man*, for the purpose of accomplishing the mission which he came upon earth to fulfil.

This being the state of the question, then, I enter upon my subject; and I do not hesitate to affirm, because I will prove it, that, upon examining all the circumstances of this great trial, we shall be very far from discovering in it the application of those legal maxims, which are the safeguard of the rights of accused persons, and of which Mr. Salvador, in his chapter *On the Administration of Justice*, has made a seductive exposition.

The accusation of Jesus, instigated by the hatred of the priests and the Pharisees, and presented at first as a charge of *sacrilege*, but afterwards converted into a *political* crime and an *offence against the state*, was marked, in all its aspects, with the foulest acts of violence and perfidy. It

was not so much a *trial* environed with legal forms, as a real *passion*, or prolonged suffering, in which the imperturbable gentleness of the victim displays more strongly the unrelenting ferocity of his persecutors.

When Jesus appeared among the Jews, that people was but the shadow of itself. Broken down by more than one subjugation, divided by factions and irreconcilable sects, they had in the last resort been obliged to succumb to the Roman power and surrender their own sovereignty. Jerusalem, having become a mere appendage to the province of Syria, saw within its walls an imperial garrison; Pilate commanded there, in the name of Cæsar; and the late people of God were groaning under the double tyranny of a conqueror, whose power they abhorred and whose idolatry they detested, and of a priesthood that exerted itself to keep them under the rigorous bonds of a religious fanaticism.

Jesus Christ deplored the misfortunes of his country. How often did he weep for Jerusalem! Read in Bossuet's *Politics drawn from the Holy Scriptures*, the admirable chapter entitled, *Jesus Christ the good citizen.* He recommended to his countrymen *union*, which constitutes the strength of states. "O Jerusalem, Jerusalem, (said he,) thou that killest the prophets and stonest them which are sent unto thee, how often would I have gathered thy children together, even as a hen gathereth her chickens under her wings, and ye would not!"

He was supposed to be not favorable to the Romans; but he only loved his own countrymen more. Witness the address of the Jews, who, in order to induce him to restore to the centurion a sick servant that was dear to him, used as the most powerful argument these words — that he was worthy for whom he should do this, for

he loveth our nation. And Jesus went with them. Luke vii. 4, 5.

Touched with the distresses of the nation, Jesus comforted them by holding up to them the hope of another life; he alarmed the great, the rich, and the haughty, by the prospect of a final judgment, at which every man would be judged not according to his rank, but his works. He was desirous of again bringing back man to his original dignity; he spoke to him of his *duties*, but at the same time of his *rights*. The people heard him with avidity, and followed him with eagerness; his words affected them; his hand healed their diseases, and his moral teaching instructed them; he preached, and practised one virtue till then unknown, and which belongs to him alone — *charity*. This celebrity, however, and these wonders excited envy. The partisans of the *ancient theocracy* were alarmed at the *new doctrine;* the

chief priests felt that their power was threatened; the pride of the Pharisees was humbled; the scribes came in as their auxiliaries, and the destruction of Jesus was resolved upon.

Now, if his conduct was reprehensible, if it afforded grounds for a *legal accusation*, why was not that course taken openly? Why not try him for the acts committed by him, and for his public discourses? Why employ against him subterfuges, artifice, perfidy and violence? for such was the mode of proceeding against Jesus.

Let us now take up the subject, and look at the narratives which have come down to us. Let us, with Mr. Salvador, open the books of the Gospels; for he does not object to that testimony; nay, he relies upon it: "It is by the Gospels themselves," says he, "that I shall establish *all the facts*."

In truth, how can we (except by contrary evidence, of which there is none) refuse to place confidence in an historian, who tells us, as Saint John does, with affecting simplicity: "He that saw it bare record, and his record is true; and he knoweth that he saith true, that ye might believe." John xix. 35.

SECTION I.

SPIES, OR INFORMERS.

Who will not be surprised to find in this case the odious practice of employing *hired informers?* Branded with infamy, as they are in modern times, they will be still more so when we carry back their origin to the trial of Christ. It will be seen presently, whether I have not properly characterized

by the name of *hired informers* those emissaries, whom the chief priests sent out to be about Jesus.

We read in the evangelist Luke, chap. xx. 20: *Et observantes miserunt insidiatores, qui se justos simularent, ut caperent eum in sermone, et traderent illum principatui et potestati præsidis.* I will not translate this text myself, but will take the language of a translator whose accuracy is well known, Mr. De Sacy: "As they only sought occasions for his destruction, they sent to him *apostate persons*, who *feigned themselves just men*, in order to *take hold* of his words, that they might deliver him unto the magistrate and into the power of the governor." And Mr. De Sacy adds — "if there should escape from him the least word against the public authorities."

This first artifice has escaped the sagacity of Mr. Salvador.

SECTION II.

THE CORRUPTION AND TREACHERY OF JUDAS.

According to Mr. Salvador, the senate, as he calls it, did not commence their proceedings by arresting Jesus, as would be done at the present day; but they began by passing a preliminary decree, that he should be arrested; and he cites, in proof of his assertion, St. John xi. 53, 54, and St. Matthew xxvi. 4, 5.

But St. John says nothing of this pretended decree. He speaks, too, not of a public sitting, but of a consultation held by the chief priests and the *Pharisees*, who did not, to my knowledge, constitute a judicial tribunal among the Jews. "Then gathered the chief priests and the Pharisees a council, and said, What do we? for this man *doeth many miracles*." John xi.

47. They add: "If we let him thus alone, all men will believe on him,"—which imported also, in their minds, *and they will no longer believe in us.* Now, in this, I can readily perceive the fear of seeing the morals and doctrines of Jesus prevail; but where is the preliminary *judgment*, or decree? I cannot discover it.

"And one of them, named Caiaphas, being the high priest that same year, said unto them, Ye know nothing at all, nor consider, that it is expedient for us, that one man should die for the people, ... and he *prophesied*, that Jesus should die for the nation of the Jews." But to *prophesy* is not to *pass judgment;* and the *individual* opinion of Caiaphas, who was only *one* among them, was not the opinion of all, nor a *judgment of the senate.* We, therefore, still find a *judgment* wanting; and we only observe, that the priests and Pharisees are stimulated by a violent hatred

of Jesus, and that "from that day forth they took counsel together for *to put him to death; ut interficerent eum.*" John xi. 53.

The authority of St. John, then, is directly in contradiction of the assertion, that there was an *order of arrest* previously passed by a regular tribunal.

St. Matthew, in relating the same facts, says, that the chief priests assembled at the palace of the high priest, who was called Caiaphas, and there held counsel together. But what counsel? and what was the result of it? Was it to issue an *order of arrest* against Jesus, that they might hear him and then pass sentence? Not at all; but they held counsel together, "that they might take Jesus *by subtilty*, or *fraud*, and *kill him; consilium fecerunt, ut Jesum* DOLO *tenerent et* OCCIDERENT. Matt. xxvi. 5. Now in the Latin language, a language perfectly well constituted in every thing

relating to terms of the law, the words *occidere* and *interficere* were never employed to express the act of passing *sentence*, or *judgment of death*, but simply to signify *murder* or *assassination*.*

This *fraud*, by the aid of which they were to get Jesus into their power, was nothing but the bargain made between the chief priests and Judas.

Judas, one of the twelve, goes to find the chief priests, and says to them, What

* As was that of Stephen, whom the same priests caused to be massacred by the populace, without a previous sentence of the law. OCCIDERE: Non occides, thou shalt not kill. *Deut.* v. 17. Veneno homines occidere. Cic. pro Roscio, 61. Virginiam filiam sua manu occidit Virginius. Cic. de Finib. 107. Non hominem occidi. Horat. I. Epist. 17, 10. Inermem occidere. Ovid. ii. Fast. 139. INTERFICERE: Feras interficere. Lucret. lib. v. 251. Interfectus in acie. Cic. de Finib. 103. Cæsaris interfectores. Brutus Ciceroni, 16, 8. Interfectorem Gracchi. Cic. de Claris Orrato. 66.

will ye give me, and I will deliver him unto you? Matt. xxvi. 14, 15. And they covenanted with him for thirty pieces of silver! Jesus, who foresaw his treachery, warned him of it mildly, in the midst of the Last Supper, where the voice of his master, in the presence of his brethren, should have touched him and awakened his reflections! But not so; wholly absorbed in his reward, Judas placed himself at the head of a gang of servants, to whom he was to point out Jesus; and, then, by a *kiss* consummated his treachery! *

* Will it be believed, that Tertullian and St. Irenæus were obliged to refute seriously some writers of their day, who considered the conduct of Judas not only excusable, but worthy of admiration and highly meritorious, "because (as they said) of the immense service which he had rendered to the human race by *preparing their redemption!* In the same manner, at a certain period, we have seen plunderers of the public money make a merit of their conduct, because in that way they had weakened the usurpation and prepared the way for the triumph of legitimacy.

Is it thus that a *judicial decree was to be executed*, if there had really been one made for the arrest of Jesus?

SECTION III.

PERSONAL LIBERTY. — RESISTANCE TO AN ARMED FORCE.

The act was done in the *night time*. After having celebrated the Supper, Jesus had conducted his disciples to the Mount of Olives. He prayed fervently; but they fell asleep.

Jesus awakes them, with a gentle reproof for their weakness, and warns them that the moment is approaching. "Rise, let us be going; behold he is at hand that doth betray me." Matt, xxvi. 46.

Judas was not alone; in his suite there

was a kind of ruffian band, almost entirely composed of servants of the high priest, but whom Mr. Salvador honors with the title of the *legal soldiery*. If in the crowd there were any Roman *soldiers*, they were there as spectators, and without having been legally called on duty ; for the Roman commanding officer, Pilate, had not yet heard the affair spoken of.

This personal seizure of Jesus had so much the appearance of a forcible arrest, an illegal act of violence, that his disciples made preparation to repel force by force.

Malchus, the insolent servant of the high priest, having shown himself the most eager to rush upon Jesus, Peter, not less zealous for his own master, cut off the servant's right ear.

This resistance might have been continued with success, if Jesus had not immediately interfered. But what proves that Peter, even while causing bloodshed, was

not resisting a *legal order*, a *legal judgment* or decree, (which would have made his resistance an act of *rebellion by an armed force against a judicial order*,) is this—that he was not arrested, either at the moment or afterwards, at the house of the high priest, to which he followed Jesus, and where he was most distinctly recognised by the maid servant of the high priest, and even by a relative of Malchus.

Jesus alone was arrested; and although he had not individually offered any active resistance, and had even restrained that of his disciples, they bound him as a malefactor; which was a criminal degree of rigor, since for the purpose of securing a single man by a numerous band of persons armed with swords and staves it was not necessary. "Be ye come out as against a thief with swords and staves?" Luke xxii. 52.

SECTION IV.

OTHER IRREGULARITIES IN THE ARREST. — SEIZURE OF THE PERSON.

They dragged Jesus along with them; and, instead of taking him directly to the proper magistrate, they carried him before Annas, who had no other character than that of being *father in law to the high priest.* John xviii. 13. Now, if this was only for the purpose of letting him be seen by him, such a curiosity was not to be gratified; it was a vexatious proceeding, an irregularity.

From the house of Annas they led him to that of the high priest; all this time being *bound.* John xviii. 24. They placed him in the court yard; it was cold, and they made a fire; it was in the night time, but by the light of the fire Peter

was recognised by the people of the palace.

Now the Jewish law prohibited *all proceedings by night;* here, therefore, there was another infraction of the law.

Under this state of things, his person being forcibly seized and detained in a private house, and delivered into the hands of servants, in the midst of a court, how was Jesus treated? St. Luke says, the men that held Jesus *mocked* him and *smote* him; and when they had blindfolded him, they struck him on the face, and asked him, saying, Prophesy, who is it that smote thee? And many other things blasphemously spake they against him. Luke xxii. 63, 64, 65.

Will it be said, as Mr. Salvador does, that all this took place out of the presence of the senate? Let us wait, in this instance, till the senate shall be called up, and we shall see how far they protected the accused person.

SECTION V.

CAPTIOUS INTERROGATORIES. — ACTS OF VIOLENCE TOWARDS JESUS.

Already had the cock crowed! But it was not yet day. The elders of the people and the chief priests and the scribes came together, and, having caused Jesus to appear before their council, they proceeded to interrogate him. Luke xxii. 66.

Now, in the outset, it should be observed, that if they had been less carried away by their hatred, they should, as it was the *night time*, not only have postponed, but put a stop to the proceedings, because it was *the feast of the Passover*, the most solemn of all festivals; and according to their law no *judicial procedure* could take place on a feast-day, under the penalty of

being null.* Nevertheless, let us see who proceeded to interrogate Jesus.

This was that same Caiaphas, who, if he had intended to remain a *judge*, was evidently liable to objection ; for in the preceding assemblage he had made himself the *accuser* of Jesus. † Even before he had seen or heard him, he declared him to be *deserving of death.* He said to his colleagues, that "it was *expedient* that one man should die for all." John xviii. 14. Such being the opinion of Caiaphas, we shall not be surprised, if he shows partiality.

Instead of interrogating Jesus respecting *positive acts done*, with their circumstances, and respecting *facts personal to himself*,

* See, as to these two grounds of nullity, the Jewish authors cited by Prost de Royer, tome 2, p. 205, *verbo* ACCUSATION.

† Mr. Salvador admits this : "Caiaphas," says he, "made himself his accuser." p. 85.

Caiaphas interrogates him respecting *general facts*, respecting his disciples (whom it would have been much more simple to have called as witnesses) and respecting his *doctrine*, which was a mere abstraction so long as no external acts were the consequence of it. "The high priest then asked Jesus of his disciples and of his doctrine." John xviii. 19.

Jesus answered with dignity: "I spake openly to the world; I ever taught in the synagogue and in the temple, whither the Jews always resort; and in secret have I said nothing." Ib. 20.

"Why askest thou me? Ask them which heard me, *what I have said unto them;* behold, they know what I said." Ib. 21.

"And when he had thus spoken, one of the officers which stood by struck Jesus with the palm of his hand, saying, Answerest thou the high priest so?" Ib.

Will it here be still said, that this violence was the individual act of the person who thus struck the accused? I answer, that on this occasion the fact took place in the presence and under the eyes of the whole council; and, as the high priest who presided did not restrain the author of it, I come to the conclusion, that he became an accomplice, especially when this violence was committed under the pretence of avenging the alleged affront to his dignity.

But in what respect could the answer of Jesus appear offensive? "If I have spoken evil," said Jesus, "bear witness of the evil; but if well, why smitest thou me?" * John xviii. 23.

* Ananias, a chief priest, having given orders to strike Paul upon the face, Paul said to him: God shall smite thee, thou whited wall; for sittest thou to judge me after the law, and commandest me to be smitten, *contrary to the law?*" Acts xxiii. 3.

There remained no mode of escaping from this dilemma. They accused Jesus; it was for those, who accused, to prove their accusation. An accused person is not obliged to criminate himself. He should have been convicted by proofs; he himself called for them. Let us see what witnesses were produced against him.

SECTION VI.

WITNESSES. — NEW INTERROGATORIES. — THE JUDGE IN A PASSION.

"And the chief priests and all the council sought for witness against Jesus to put him to death; and found none." Mark xiv. 55.

"For many bare *false witness* against him, but their witness agreed not together." Ib. 56.

"And there arose certain, and bare false witness against him, saying, We heard him say, I will destroy this temple that is made with hands, and within three days I will build another made without hands." Ib. 57, 58.

"But (to the same point still) neither so did their witness agree together." Ib. 59.

Mr. Salvador, on this subject, says, p. 87: "The two witnesses, whom St. Matthew and St. Mark charge with *falsehood*, narrate a discourse which St. John declares to be *true*, so far as respects the power which Jesus Christ attributed to himself."

This alleged contradiction among the Evangelists does not exist. In the first place, St. Matthew does not say that the discourse was had by Jesus. In chapter xxvi. 61, he states the depositions of the witnesses, but saying at the same time that they were *false witnesses;* and in chapter

xxvii. 40, he puts the same declaration into the mouth of those who insulted Jesus at the foot of the cross; but he does not put it into the mouth of Christ. He is in accordance with St. Mark.

St. John, chapter ii. 19, makes Jesus speak in these words: "Jesus answered and said unto them, Destroy this temple, and in three days I will raise it up." And St. John adds: " He spake of the temple of his body."

Thus Jesus did not say in an affirmative and somewhat menacing manner, *I will destroy this temple*, as the witnesses *falsely* assumed; he only said, hypothetically, *Destroy this temple*, that is to say, suppose this temple should be destroyed, I will raise it up in three days. Besides, they could not dissemble, that he referred to a temple altogether different from theirs, because he said, I will raise up another in three days, *which will not be made by the hands of man.*

It hence results, at least, that the Jews did not understand him, for they cried out, "Forty and six years was this temple in building, and wilt thou rear it up in three days?"

Thus, then, the witnesses did not agree together, and their declarations had nothing conclusive. Mark xiv. 59. We must, therefore, look for other proofs.

"Then the high priest, (we must not forget, that he is still the accuser,) the high priest stood up in the midst, and asked Jesus, saying, Answerest thou nothing? what is it, which these witness against thee? But he held his peace, and answered nothing." Mark xiv. 60. In truth, since the question was not concerning the temple of the Jews, but an ideal temple, not made by the hand of man, and which was alone in the thoughts of Jesus, the explanation was to be found in the very evidence itself.

The high priest continued: "I adjure thee, by the living God, that thou tell us, whether thou be the Christ, the Son of God." Matt. xxvi. 63. I adjure thee, I call upon thee on oath! a gross infraction of that rule of morals and jurisprudence, which forbids our placing an accused person between the danger of perjury and the fear of inculpating himself, and thus making his situation more hazardous. The high priest, however, persists, and says to him: Art thou the Christ, the Son of God?* Jesus answered, *Thou hast said.* Matthew xxvi. 64; *I am.* Mark xiv. 62.

"Then the high priest rent his clothes,

* Mr. Salvador, in his note to p. 82, admits, that "the expression *Son of God* was in common use among the Hebrews, to signify a man of great wisdom, or of deep piety. But he adds, "*It was not in this sense*, that it was used by Jesus Christ; it would not have caused so strong a sensation." Thus, then, by *construction*, and changing the words from their usual meaning, an article of accusation is formed against Jesus.

saying, *He hath spoken blasphemy; what further need have we of witnesses?* behold, now *ye have heard his blasphemy.* What think ye? They answered and said, He is guilty of death." Matt. xxvi. 66.

Let us now compare this scene of violence with the mild deduction of principles, which we find in the chapter of Mr. Salvador *On the Administration of Justice;* and let us ask ourselves, if, as he alleges, we find a just *application* of them in the proceedings against Christ?

Do we discover here that *respect* of the Hebrew judge towards the party accused, when we see that Caiaphas permitted him to be struck, in his presence, *with impunity?*

What was this Caiaphas, at once an accuser and judge? * A passionate man, and

* That is, he usurped the functions of a judge; for we shall see, in the next section, that the *Council* of the Jews had not jurisdiction of capital cases.

too much resembling the odious portrait which the historian Josephus has given us of him! * A judge, who was irritated to such a degree, that he rent his clothes; who imposed upon the accused a most solemn oath, and who gave to his answers the criminal character, that *he had spoken* blasphemy! And, from that moment, he wanted no more witnesses, notwithstanding the law required them. He would not have an inquiry, which he perceived would be insufficient; he attempts to supply it by captious questions. He is desirous of having him condemned *upon his own declaration alone*, (interpreted, too, as he chooses to understand it,) though that was forbidden by the laws of the Hebrews! And, in the midst of a most violent transport of passion, this accuser himself, a high priest, who means to speak in the name of the living God, is the first to pass sentence of

* Antiq. Judaic. lib. 18, cap. 3 & 6.

death, and carries with him the opinions of the rest!

In this hideous picture I cannot recognise that justice of the Hebrews, of which Mr. Salvador has given so fine a view in *his theory!*

SECTION VII.

SUBSEQUENT ACTS OF VIOLENCE.

Immediately after this kind of sacerdotal verdict rendered against Jesus, the acts of violence and insults recommenced with increased strength; the fury of the judge must have communicated itself to the by-standers. St. Matthew says: "Then did they spit in his face, and buffeted him; and others smote him with the palms of their hands, saying, Prophesy unto us,

thou Christ; who is he that smote thee?" Matt. xxvi. 67, 68.

Mr. Salvador does not contest the truth of this ill treatment. In page 88 he says, "it was contrary to the spirit of the Hebrew law, and that it was not according to the order of nature, that a senate composed of the most respectable men of a nation, — that a senate, which might perhaps be mistaken but which thought it was acting mildly, should have permitted such outrages against him whose life it held in its own hands. The writers, who have transmitted these details to us, not having been present themselves at the trial, were disposed to over charge the picture, either on account of their own feelings, or to throw upon their judges a greater odium."

I repeat; this ill treatment was entirely contrary to the spirit of the law. And what do I want more, since my object is, to make prominent *all the violations of law*.

"It is not in nature to see a body, which respects itself, authorize such attempts." But of what consequence is that, when the fact is established? "The historians, it is said, were not present at the trial." But was Mr. Salvador there present himself, so that he could give a flat denial of their statements? And when even an able writer, who was not an eye witness, relates the same events after the lapse of more than eighteen centuries, he ought at least to bring opposing evidence, if he would impeach that of contemporaries; who, if they were not in the very hall of the council, were certainly on the spot, in the vicinity, perhaps in the court yard, inquiring anxiously of every thing that was happening to the man whose disciples they were.* Besides, the learned author

* Peter followed him afar off unto the high priest's palace, and went in and sat with the servants to see the end. Matt. xxvi. 58. So also the young man

whom I am combating says, in the outset (p. 81) "it is from the Gospels themselves that he will take all his facts." He must then take the whole together, as well those which go to condemn, as those which are in palliation or excuse.

Those gross insults, those inhuman acts of violence, even if they are to be cast upon the servants of the high priest and the persons in his train, do not excuse those individuals, who, when they took upon themselves the authority of judges, were bound at the same time to throw around him all the protection of the law. Caiaphas, too, was culpable as the master of the house, (for every thing took place in his house,) even if he should not be responsible as high priest and president of the council for having permitted excesses,

spoken of by St. Mark, xiv. 51: And there followed him a certain young man, &c.

which, indeed were but too much in accordance with the rage he had himself displayed upon the bench.

These outrages, which would be inexcusable even towards a man irrevocably condemned to punishment, were the more criminal towards Jesus, because, legally and judicially speaking, there had not yet been any sentence properly passed against him according to the public law of the country ; as we shall see in the following section, which will deserve the undivided attention of the reader.

SECTION VIII.

THE POSITION OF THE JEWS IN RESPECT TO THE ROMANS.

We must not forget, *that Judea was a conquered country.* After the death of Herod — most inappropriately surnamed *the Great* — Augustus had confirmed his last will, by which that king of the Jews had arranged the division of his dominions between *his* two sons: but Augustus did not continue their title of *king*, which their father had borne.

Archeläus, on whom Judea devolved, having been recalled on account of his cruelties, the territory, which was at first entrusted to his command, was united to the province of Syria. (*Josephus*, Antiq. Jud. lib. 17, cap. 15.)

Augustus then appointed particular officers for Judea. Tiberius did the same; and at the time of which we are speaking, Pilate was one of those officers. (*Josephus*, lib. 18, cap. 3 & 8.)

Some have considered Pilate as governor, by title, and have given him the Latin appellation, *Præses*, president or governor. But they have mistaken the force of the word. Pilate was one of those public officers, who were called by the Romans *procuratores Cæsaris*, Imperial procurators.

With this title of *procurator*, he was placed under the superior authority of the governor of Syria, the true *præses*, or governor of that province, of which Judea was then only one of the dependencies.

To the governor (*præses*) peculiarly belonged the right of taking cognizance of *capital* cases.* The *procurator*, on the

* *De Crimine* præsidis cognitio est. Cujas, xix. Observ. 13.

contrary, had, for his principal duty, nothing but the collection of the revenue, and the trial of revenue causes. But the right of taking cognizance of *capital* cases did, in some instances, belong to certain *procurators*, who were sent into small provinces to fill the places of governors (*vice-præsides*), as appears clearly from the Roman laws.* Such was *Pilate* at Jerusalem.†

The Jews, placed in this political posi-

* Procurator Cæsaris *fungens vice præsidis* potest cognoscere *de causis criminalibus*. Godefroy, in his note (letter S) upon the 3d law of the Code, *Ubi causæ fiscales*, &c. And he cites several others, which I have verified, and which are most precise to the same effect. See particularly the 4th law of the Code, *Ad leg. fab. de plag.*, and the 2d law of the Code, *De pœnis*.

† Procuratoribus Cæsaris data est jurisdictio in causis fiscalibus pecuniariis, non in criminalibus, nisi quum fungebantur *vice præsidum;* ut Pontius Pilatus fuit procurator Cæsaris *vice præsidis* in Syria. Cujas, Observ. xix. 13.

tion—notwithstanding they were left in the enjoyment of their civil laws, the public exercise of their religion, and many things merely relating to their police and municipal regulations — the Jews, I say, had not the *power of life and death;* this was a principal attribute of sovereignty, which the Romans always took great care to reserve to themselves, even if they neglected other things. *Apud Romanos, jus valet gladii; cætera transmittuntur.* TACIT.

What then was the right of the Jewish authorities in regard to Jesus? Without doubt the scribes, and their friends the Pharisees, might well have been alarmed, as a body and individually, at the preaching and success of Jesus; they might be concerned for their worship; and they might have interrogated the man respecting his creed and his doctrines, — they might have made a kind of preparatory proceeding, — they might have declared,

in point of fact, that those doctrines, which threatened their own, were contrary to their law, as understood by themselves.

But that law, although it had not undergone any alteration as to the affairs of religion, had no longer any coercive power as to the external or civil regulations of society. In vain would they have undertaken to pronounce sentence of death under the circumstances of the case of Jesus; the council of the Jews had not the power to pass *a sentence of death;* it only would have had power to make *an accusation* against him before the governor, or his deputy, and then deliver him over to be tried by him.

Let us distinctly establish this point; for here I entirely differ in opinion from Mr. Salvador. According to him, (p. 88,) "the Jews had *reserved the power of trying, according to their law;* but it was in the hands of the *procurator* alone, that the

executive power was vested; every culprit must be put to death by *his* consent, in order that the senate should not have the means of reaching persons that were sold to foreigners."

No; the Jews had not reserved *the right of passing sentence of death.* This right had been transferred to the Romans by the very act of conquest; and this was not merely that the senate should not have the means of reaching persons who were sold to foreign countries; but it was done, in order that the conqueror might be able to reach those individuals who should become *impatient of the yoke;* it was, in short, for the equal protection of all, as all had become Roman subjects; and to Rome alone belonged the highest judicial power, which is the principal attribute of sovereignty. Pilate, as the representative of Cæsar in Judea, was not merely an agent of the *executive authority,* which would

have left the *judiciary* and *legislative* power in the hands of the conquered people — he was not simply an officer appointed to give an *exequatur* or mere approval (*visa*) to sentences passed by *another authority*, the *authority of the Jews*. When the matter in question was a *capital* case, the Roman authorities not only ordered the *execution* of a sentence, but also took cognizance (*cognitio*) of the crime; it had the right of jurisdiction *a priori*, and that of *passing judgment in the last resort*. If Pilate himself had not had this power by special delegation, *vice præsidis*, it was vested in the governor, within whose territorial jurisdiction the case occurred; but in any event we hold it to be clear, that the Jews had lost the right of *condemning to death* any person whatever, not only so far as respects the *execution* but the *passing* of the sentence. This is one of the best settled points in the provincial law of the Romans.

The Jews were not ignorant of this; for when they went before Pilate, to ask of him the condemnation of Jesus, they themselves declared, that it was not permitted to them to put any person to death: "It is not lawful for us to put any man to death." John xviii. 31.

Here I am happy to be able to support myself by the opinion of a very respectable authority, the celebrated Loiseau, in his treatise on *Seigneuries*, in the chapter on the administration of *justice belonging to cities*. "In truth," says he, there is some evidence, that the *police*, in which the people had the sole interest, was administered by officers of the people; but I know not upon what were founded the concessions of power to some cities of France to exercise criminal jurisdiction; nor why the Ordinance of Moulins left that to them rather than civil cases; for the criminal jurisdiction is the *right of the*

sword, the *merum imperium*, or absolute sovereignty. Accordingly, by the Roman law, the administration of justice was so far prohibited to the officers of cities, that they could not punish even by a simple fine. *Thus it is doubtless that we must understand* that passage of the Gospel, where the Jews say to Pilate, *It is not lawful for us to put any man to death;* for, after they were subjected to the Romans, they had not jurisdiction of crimes."

Let us now follow Jesus to the presence of Pilate.

SECTION IX.

THE ACCUSATION MADE BEFORE PILATE.

At this point I must entreat the particular attention of the reader. The irregu-

larities and acts of violence, which I have hitherto remarked upon, are nothing in comparison with the unbridled fury, which is about to display itself before the *Roman Judge*, in order to extort from him, against his own conviction, a sentence of death.

"And straightway in the morning the chief priests held a consultation with the elders, and scribes, and the whole council, and bound Jesus, and carried him away, and delivered him to Pilate." Mark xv. 1.

As soon as the morning was come; for, as I have observed already, every thing which had been done thus far against Jesus, was done *during the night.*

They then led Jesus from Caiaphas unto the Hall of Judgment of Pilate.* It was early; and they themselves went not into the judgment hall, lest *they should be de-*

* "To carry one from Caiaphas to Pilate" has since become a proverb.

filed ; but that they might eat the passover. John xviii. 28.

Singular scrupulousness ! and truly worthy of the Pharisees ! They were afraid of *defiling themselves on the day of the passover* by entering *the house of* a heathen ! And yet, the same day, only some hours before presenting themselves to Pilate, they had, in contempt of their own law, committed the outrage of *holding a council* and deliberating upon *an accusation of a capital crime.*

As they would not enter, " Pilate went out to them." John xviii. 29. Now observe his language. He did not say to them, *Where is the sentence you have passed ;* as he must have done, if he was only to give them his simple *exequatur*, or permission to execute the sentence ; but he takes up the matter from the beginning, as would be done by one who had *plenary jurisdiction ;* and he says to them : What accusation bring ye against this man ? Ib.

They answered, with their accustomed haughtiness: If he were not a *malefactor* we would not have delivered him up to thee. John xviii. 30. They wished to have it understood, that, being a question of *blasphemy*, it was the *cause of their religion*, which they could appreciate better than any others could. Pilate, then, would have been under the necessity of believing them *on their word.* But this Roman, indignant at their proposed course of proceeding, which would have restricted his jurisdiction by making him the passive instrument of the wishes of the Jews, answered them in an ironical manner: Well, since you say he has sinned against your law, take him yourselves and judge him according to your law. John xviii. 31. This was an absolute mystification to them, for they knew their own want of power to condemn him to death. But they were obliged to yield the point, and to submit

to Pilate himself their *articles of accusation.*

Now what were the grounds of this accusation? Were they *the same* which had hitherto been alleged against Jesus — the charge of *blasphemy* — which was the only one brought forward by Caiaphas before the council of the Jews? Not at all; despairing of obtaining from the Roman judge a sentence of *death* for a *religious* quarrel, which was of no interest to the Romans,* they suddenly changed their plan; they abandoned their first accusation, the charge of blasphemy, and substituted for it a *political* accusation, an *offence against the state.*

Here we have the very crisis, or essential incident, of the passion; and that

* Lysias thus wrote to Felix the Governor, in relation to Paul: Whom I perceived to be accused of questions of their law, but to have nothing laid to his charge worthy of death or bonds. Acts xxiii. 29.

which makes the heaviest accusation of guilt on the part of the informers against Jesus. For, being fully bent on destroying him in any manner whatever, they no longer exhibited themselves as the avengers of *their religion*, which was alleged to have been outraged, or of their worship, which it was pretended was threatened; but, ceasing to appear as Jews, in order to affect sentiments belonging to a foreign nation, those hypocrites held out the appearance of being concerned for the interests of *Rome;* they accused their own countryman of an intention to restore the kingdom of Jerusalem, to make himself *king* of the *Jews*, and to make an insurrection of the people against their conquerors. Let us hear them speak for themselves:

"And they began to *accuse* him, saying, We found this fellow perverting the nation, and forbidding to give tribute to Cæsar, saying, that he himself is Christ a *king*." Luke xxiii. 2.

What a calumny! Jesus forbidding to give tribute to Cæsar! when he had answered the Pharisees themselves, in presence of the whole people, by showing them the image of Cæsar upon a Roman piece of money, and saying, Give unto Cæsar the things which are Cæsar's. But this accusation was one mode of interesting Pilate in respect to his jurisdiction; for, as an imperial *procurator*, he was specially to superintend the collection of the revenue. The second branch of the accusation still more directly affected the sovereignty of the Romans: "He holds himself up for a *king*."

The accusation having thus assumed a character purely *political*, Pilate thought he must pay attention to it. "Then Pilate entered into the judgment hall, (the place where justice was administered,) and having *summoned Jesus to appear* before him, he proceeds to his Examination, and

says to him: "Art thou the king of the Jews?" John xviii. 33.

This question, so different from those which had been addressed to him at the house of the high priest, appears to have excited the astonishment of Jesus; and, in his turn, he asked Pilate: "Sayest thou this thing of thyself, or did others tell it thee of me?" Ib. 24. In reality, Jesus was desirous of knowing, first of all, the authors of this new accusation — Is this an accusation brought against me by the *Romans* or by the *Jews*?

Pilate replied to him — "Am I a Jew? Thine own nation and the chief priests have delivered thee unto me; what hast thou done?" Ib. 35.

All the particulars of this procedure are important; I cannot too often repeat the remark, that in no part of the transactions before Pilate is there any question at all respecting a previous sentence, a judgment

already passed — a judgment, the execution of which was the only subject of consideration ; it was a case of a capital accusation ; but an accusation which was then just beginning ; they were about the preliminary *interrogatories* put to the accused, and Pilate says to him, " What hast thou done ? "

Jesus, seeing by the explanation what was the source of the *prejudging* of his case, and knowing the secret thoughts which predominated in making the accusation, and that his enemies wanted to arrive at the same end by an artifice, answered Pilate — " *My kingdom is not of this world ;* if my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews ; " (we see, in fact, that Jesus had forbidden his people to resist) but, he added, " now is my kingdom not from hence." John xviii. 36.

This answer of Jesus is very remarkable; it became the foundation of his religion, and the pledge of its universality, because it detached it from the interests of all governments. It rests not merely in assertion, in doctrine; it was given in *justification*, in *defence* against the accusation of intending to make himself *King of the Jews*. Indeed, if Jesus had affected a *temporal* royal authority, if there had been the least attempt, on his part, to usurp *the power of Cæsar*, he would have been guilty of treason in the eyes of the magistrate. But, by answering twice, my *kingdom is not of this world*, my kingdom *is not from hence*, his justification was complete.

Pilate, however, persisted and said to him: "Art thou a king then?" Jesus replied, Thou sayest that I am a king. To this end was I born, and for this cause came I into the world, that I should bear

witness unto the truth. Every one that is of the truth heareth my voice. John xviii. 37.

Pilate then said to him: *What is the truth?*

This question proves, that Pilate had not a very clear idea of what Jesus called *the truth.* He perceived nothing in it but *ideology;* and, satisfied with having said (less in the manner of a question than of an exclamation) "*What is the truth,*" he went out to the Jews (who remained outside) and said to them, "*I find in him no fault at all.*" John xviii. 38.

Here, then, we see Jesus absolved from the accusation by the declaration of the Roman judge himself.

But the accusers, persisting still farther, added — "*He stirreth up the people, teaching* throughout all Jewry, beginning from Galilee to this place." Luke xxiii. 5.

"He stirreth up the people"! This is

a charge of sedition ; and for Pilate. But observe, it was *by the doctrine which he teaches ;* these words comprehend the real complaint of the Jews. To them it was equivalent to saying — He *teaches* the people, he instructs them, he enlightens them ; he preaches *new doctrines* which are not *ours*. " He stirs up the people " ! This, in their mouths signified — the people hear him willingly ; the people follow and become attached to him ; for he preaches a doctrine that is friendly and consolatory to the people ; he unmasks our pride, our avarice, our insatiable spirit of domination !

Pilate, however, does not appear to have attached much importance to this new turn given to the accusation ; but he here betrays a weakness. He heard the word *Galilee ;* and he makes that the occasion of shifting off the responsibility upon another public officer, and seizes the occa-

sion with avidity. He says to Jesus — you are a *Galilean* then? and, upon the answer being in the affirmative, considering Jesus as belonging to the jurisdiction of Herod-Antipas, who, by the good pleasure of Cæsar, was then tetrarch of Galilee, he sent him to Herod. Luke xxiii. 6, 7.

But Herod, who, as St. Luke says, had been long desirous of *seeing Jesus* and had hoped to see *some miracle* done by him, after satisfying an idle curiosity and putting several questions to him, which Jesus did not deign to answer, — Herod, notwithstanding the presence of the priests, (who had not yet gone off, but stood there with their scribes,) and notwithstanding the pertinacity with which they continued to accuse Jesus, perceiving nothing but what was merely chimerical in the *accusation of being a king*, made a mockery of the affair, and sent Jesus back to Pilate, *after having arrayed him in a gorgeous*

robe, in order to show that he thought this pretended royalty was a subject of ridicule rather than of apprehensions. Luke xxiii. 8, &c., and De Sacy. Ib.

SECTION X.

THE LAST EFFORTS BEFORE PILATE.

No person, then was willing to condemn Jesus; neither Herod, who only made the case a subject of mockery, nor Pilate, who had openly declared that he found nothing criminal in him.

But the hatred of the priests was not disarmed; so far from it, that the chief priests, with a numerous train of their partisans, returned to Pilate with a determination to force him to a decision.

The unfortunate Pilate, reviewing his

proceedings in their presence, said to them again: "Ye have brought this man unto me as one that perverteth the people; and, behold, I, having examined him before you, *have found no fault in this man touching those things whereof ye accuse him:* No, nor yet Herod; for I sent you to him, and lo, *nothing worthy of death is done unto him.* I will therefore chastise him and release him." Luke xxiii. 14, 15.

After "chastising" him! And was not this a piece of cruelty, when he considered him to be innocent?* But this was an act of condescension by which Pilate hoped to quiet the rage with which he saw they were agitated.

* Gerhard makes the following unanswerable dilemma upon this point. "Be consistent with thyself, Pilate; for, if Christ is innocent, why dost thou not send him away acquitted? And if thou believest him deserving of chastisement with rods, why dost thou proclaim him to be innocent?" *Gerh. Harm.* ch. 193, p. 1889.

"Then Pilate therefore took Jesus and scourged him." John xix. 1. And, supposing that he had done enough to disarm their fury, he exhibited him to them in that pitiable condition; saying to them at the same time, Behold the man! *Ecce homo.* John xix. 5.

Now, in my turn, I say, here is indeed a decree of Pilate; and an unjust decree; but it is not the pretended decree alleged to have been made by the Jews. It is a decision wholly different; an unjust decision, it is true; but sufficient to avail as *a legal bar* to any new proceedings against Jesus for the same act. *Non bis in idem*, no man shall be put twice in jeopardy, &c. is a maxim, which has come down to us from the Romans.

Accordingly, "from thenceforth Pilate sought to *release* Jesus." John xix. 12.

Here, now, observe the deep perfidy of his accusers. "If thou let this man go,

thou art not Cæsar's friend; whosoever maketh himself a *king* speaketh against Cæsar." Ib.

It does not appear that Pilate was malignant; we see all the efforts he had made at different times to save Jesus. But he was a *public officer*, and was attached to *his office;* he was intimidated by the outcry which called in question his *fidelity to the emperor;* he was afraid of a *dismissal*; and he yielded. He immediately reascended the judgment seat; (Matt. xxvii. 19,) and, as new light had thus come upon him, he proceeded to make a second decree!

But being for a moment stopped by the voice of his own conscience, and by the advice which his terrified wife sent to him — "*Have thou nothing to do with that just man*" — (Matt. xxvii. 19) — he made his last effort, by attempting to influence the populace to accept of Barabbas instead

of Jesus. "But the chief priests moved the people, that he should rather release Barabbas unto them." Mark xv. 11. Barabbas! a murderer! an assassin!

Pilate spoke to them again: *What will ye then, that I should do with Jesus?* And they cried out, *Away with him, crucify him.* Pilate still persisted: *Shall I crucify your king?* thus using terms of raillery, in order to disarm them. But here showing themselves to be more truly Roman than Pilate himself, the chief priests hypocritically answered: *We have no king but Cæsar.* John xix. 15.

The outcry was renewed — Crucify him, crucify him! And the clamor became more and more threatening; "and the voices of them and of the chief priests prevailed." Luke xxiii. 23.

At length Pilate, *being desirous of pleasing the multitude*, proceeds to speak. But can we call it a legal adjudication, a *judg-*

ment, that he is about to pronounce? Is he, at the moment, in that free state of mind which is necessary for a judge, who is about to pass a *sentence of death?* What new witnesses, what proofs have been brought forward to change his conviction and opinion, which had been so energetically declared, of the innocence of Jesus?

"When Pilate saw that he could prevail nothing, but that rather a tumult was made, he took water and washed his hands before the multitude, saying, *I am innocent of the blood of this just person;* see ye to it. Matt. xxvii. 24. And Pilate gave sentence, that it should be as they required. Luke xxiii. 24. And he delivered him to them to be crucified." Matt. xxvii. 26.

Well mayest thou wash thy hands, Pilate, stained as they are with innocent blood! Thou hast authorized the act in thy weakness; thou art not less culpable, than if thou hadst sacrificed him through

wickedness! All generations, down to our own time, have repeated, that the *Just One* suffered *under Pontius Pilate.* Thy name has remained in history, to serve for the instruction of all public men, all pusillanimous judges, in order to hold up to them the shame of *yielding contrary to one's own convictions.* The populace, in its fury, made an outcry at the foot of thy judgment seat, where, perhaps, thou thyself didst not sit securely! But of what importance was that? Thy *duty* spoke out; and in such a case, better would it be to suffer death, than to inflict it on another.*

* We will cite here the words of one of the finest laws of the Romans: Vanæ voces populi non sunt audiendæ, quando aut noxium crimine absolvi, aut innocentem condemnari desiderant — The idle clamor of the populace is not to be regarded, when they call for a guilty man to be acquitted, or an innocent one to be

We will now come to a conclusion.

The *proof* that Jesus was not, as Mr. Salvador maintains, put to death for the crime of blasphemy or sacrilege, and for having preached a new religious worship in contravention of the Mosaic law, results from *the very sentence* pronounced by Pilate; a sentence, in pursuance of which he was led to execution by Roman soldiers.

There was among the Romans a custom, which we borrowed from their jurisprudence, and which is still followed, of placing over the head of a condemned criminal a writing containing *an extract from his sentence*, in order that the public might know *for what crime* he was condemned.

condemned. *Law* 12. *Code de Pœnis.* Pilate might also have read in Horace: Justum et tenacem, &c. —

"The man in conscious virtue bold,
Who dares his secret purpose hold,
Unshaken hears the *crowd's* tumultuous cries,
And the impetuous *tyrant's* angry brow defies."

This was the reason why Pilate put on the cross a label, on which he had written these words: *Jesus Nazarenus Rex Judæorum*, (Jesus of Nazareth, King of the Jews,) which has since been denoted by the initials J. N. R. J. This was the alleged cause of his condemnation. St. Mark says — "And the superscription of his *accusation* was written over — *The King of the Jews.*" Mark xv. 26.

This inscription was first in *Latin*, which was the legal language of the *Roman* judge; and it was repeated in *Hebrew* and *Greek*, in order to be understood by the people of the nation and by foreigners.

The chief priests, whose indefatigable hatred did not overlook the most minute details, being apprehensive, that people would take it to be literally a fact affirmed, that Jesus *was the King of the Jews*, said to Pilate: "Write not *King of the Jews*,

but that *he said* I am king of the Jews." But Pilate answered: "What I have written I have written." John xix. 21, 22.

This is a conclusive answer to one of the last assertions of Mr. Salvador, (p. 88,) that "the Roman Pilate signed the sentence;" by which he always means that Pilate did nothing but sign a sentence, which he supposes to have been passed by the Sanhedrim; but in this he is mistaken. Pilate did not merely *sign* the sentence, or decree, but *drew it up;* and, when his draft was objected to by the priests, he still adhered to it, saying, what I have written shall remain as written.

Here then we see the true cause of the condemnation of Jesus! Here we have the "*judicial and legal* proof." Jesus was the victim of a *political* accusation! He was put to death for the imaginary crime of having aimed at the power of Cæsar, by calling himself *King of the*

Jews! Absurd accusation; which Pilate never believed, and which the chief priests and the Pharisees themselves did not believe. For they were not authorized to arrest Jesus on that account; it was a new, and totally different, accusation from that which they first planned — a sudden accusation of the moment, when they saw that Pilate was but little affected by their *religious* zeal, and they found it necessary to arouse *his zeal for* Cæsar.

"*If thou let this man go, thou art not Cæsar's friend!* This alarming language has too often, since that time, reverberated in the ears of timid judges, who, like Pilate, have rendered themselves criminal by delivering up victims through want of firmness, whom they would never have condemned, if they had listened to the voice of their own consciences.

Let us now recapitulate the case, as I have considered it from the beginning.

Is it not evident, contrary to the conclusion of Mr. Salvador, that Jesus, considered merely à *a simple citizen*, was not tried and sentenced either *according to law*, or *agreeably to the forms of legal proceedings then existing?*

God, according to his eternal design, might permit the just to suffer by the malice of men; but he also intended, that this should, at least happen by a disregard of all laws, and by a violation of all established rules, in order that the entire contempt of forms should stand as the first warning of the violation of law.

Let us not be surprised then, that in another part of his work, Mr. Salvador (who, it is gratifying to observe, discusses his subject dispassionately) expresses some regret in speaking of the "*unfortunate sentence against Jesus.*" Vol. i. p. 59. He has wished to excuse the Hebrews; but, one of that nation, in giving utterance to

the feelings of his heart, still says — in language which I took from his own mouth: "We should be very cautious of condemning him at this day."

I pass over the excesses which followed the order of Pilate; as, the violence shown to Simon, the Cyrenian, who was made in some degree a sharer in the punishment, by being compelled to carry the cross; the injurious treatment which attended the victim to the place of the sacrifice,* and even to the cross, where Jesus still prayed for his brethren and his executioners!

To the heathen themselves I would say — You, who have gloried in the death of Socrates, how much must you be struck with wonder at that of Jesus! Ye, censors of the Areopagus, how could you undertake to excuse the Synagogue, and justify

* To the sufferings of those who were put to death were added mockery and derision." TACIT. *Ann.* xv. 44.

the sentence of the Hall of Judgment? Philosophy herself has not hesitated to proclaim, and we may repeat with her — "Yes, if the life and death of *Socrates* were those of a sage, the life and death of *Jesus* were those of a divinity."

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